

**Damage to, Alienation,
and Unauthorized
Destruction of Records**

NASA Records Management Policy and Guidance

RESPONSIBILITIES:

- The heads of Federal agencies are responsible for preventing any unlawful alienation, alteration, removal of, or any accidental or unauthorized destruction of records, including all forms of mutilations. In addition, they are responsible for ensuring that all employees are aware of these provisions in the law and that any such action be reported to them or the Agency Records Officer.

The report shall include:

- ❖ A complete description of the records with volume and dates if known;
 - ❖ The office of origin;
 - ❖ A statement of the exact circumstances surrounding the alienation, defacing, or destruction of records;
 - ❖ A statement of the safeguards established to prevent further loss of documentation; and
 - ❖ When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.
- Records may not be removed from Federal or Agency custody or destroyed without regard to the provisions of agency records schedules. "The NASA Records Retention Schedules (NRRS)" as approved by NARA.

(55FR 27433, July 2, 1990; 44 U.S.C. 2905, 3106, 3303a)

CRIMINAL PENALTIES:

The maximum penalty for the willful and unlawful destruction, damage or alienation of Federal records is a \$2,000 fine, 3 years in prison, or both (18 U.S.C 2071). (36 CFR 1228.102)

IDENTIFYING FEDERAL RECORDS

General.

To ensure that complete and accurate records are made and retained in the Federal Government, it is essential that agencies distinguish between records and nonrecord materials by the appropriate application of the definition of records. The decision employees make every day regarding whether a document should be filed in Agency files or is nonrecord material that should be deleted when no longer needed for administrative use is no different when that document is created electronically or transmitted via e-mail. Users should be familiar with the concept and practice of distinguishing between record and non-record material, and take the appropriate filing, retention, and disposal action.

Records status.

Documentary materials are records when they meet both of the following conditions:

1. They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and,
2. They are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain.

Nonrecord materials.

Nonrecord materials are Government-owned documentary materials that do not meet the conditions of record status (see above) or that are specifically excluded from status as records by statute (**See 44 U.S.C. 3301**):

1. Library and museum material (but only if such material is made or acquired and preserved solely for reference or exhibition purposes):
2. Extra copies of documents (but only if the sole reason such copies are preserved is for convenience of reference); and,
3. Stocks of publications and processed documents. (Each agency shall create and maintain serial or record sets of its publications and processed documents, as evidence of agency activities and for the information they contain, including annual reports, brochures, pamphlets, books, handbooks, posters and maps.)

REMOVAL OF

RECORDS and NONRECORD MATERIALS.....

- No records or nonrecord materials, including extra copies of agency records kept only for convenience of reference, shall be removed from agency custody without prior approval of the Installation Records Manager.
- Classified nonrecord material must still be protected under conditions equivalent to those required by Executive branch agencies. The originating agency or its successor in function retains control over access to such classified information, even after it is properly removed from the agency.
- Nonrecord material containing information which is restricted from release under the Privacy Act or other statutes, if approved for removal from the Agency shall be protected as if it were still in Agency custody.
(36 CFR 1222.40; 1222.42)

Transfer of Records.....

Within NASA...

When an employee is transferring to another NASA Installation and their functions go with them, a list of all files being moved should be submitted to the Installation Records Manager prior to the transfer or shipment of any records to the gaining Installation.

From NASA to Another Agency....

From NASA to a Person or Commercial Business....

No records shall be transferred from the custody of one executive agency to another or to a private citizen or commercial business without prior written approval of the Agency Records Officer.

(36 CFR 1228.120; 44 U.S.C. 2908).

Guidance for Determining Retention of E-Mail System

E-Mail messages are records when they are both Created or Received by a NASA employee/contractor (and meet the definition of a record).

Examples are:

- Actions generated via e-mail;
- Modifications to Contracts;
- Employee Performance Plans;
- Engineering Drawings; and
- Configuration Control Board Decisions

These activities are considered official Agency business and must be added to the NASA's official files by printing them out and filing in accordance with NASA Records Retention Schedules (NRRS). This should be done as soon as possible after the message is sent or received. The message or attachment should then be deleted from e-mail. However, information contained in these records may be retained in electronic form other than e-mail, if the electronic format is scheduled and provides an approval disposal authority.

Non records, examples are:

- Announcements of Meetings
- Routine Exchanges of Information
- Lack Informational Value
- No Evidence of Agency Function or Activities.
- When Duplicated From An Existing or Subsequent Record and Not Considered Unique.

These messages should be deleted as soon as their purpose have been served.

Agency responsibilities: For electronic mail systems, agencies shall ensure that all staff are informed of the potential records status of messages, transmittal and receipt data, directories, and distribution lists.

Working files and similar materials.

Working files, such as preliminary draft and rough notes, and other similar materials shall be maintained for purposes of adequate and proper documentation if:

1. They were circulated or made available to employees, other than the creator, for official purposes such as approval, comment, action, recommendation, follow-up or to communicate with agency staff about agency business; and
2. They contain unique information, such as substantive annotations or comments included therein, that adds to a proper understanding of the agency's formulation and execution of basic policies, decisions, actions, or responsibilities.

Record status of copies.

The determination as to whether a particular document is a record does not depend upon whether it contains unique information. Multiple copies of the same document and documents containing duplicative information, including messages created or received on electronic mail systems, may each have record status depending on how they are used to transact agency business.